main left

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
81 Higuera Street, Suite 200
San Luis Obispo, California 93401

WASTE DISCHARGE REQUIREMENTS ORDER NO. R3-2002-0058

Waste Discharger Identification No. 3 270110029
Second Draft April 30, 2002

Monterey Pacific Winery
Monterey County

The California Regional Water Quality Control Board, Central Coast Region (Board), finds:

SITE OWNER AND LOCATION

1. On November 21, 2001, Steve McIntyre, on behalf of Monterey Pacific Winery Corporation (Discharger), submitted a Report of Waste Discharge in accordance with Section 13260 of the California Water Code. The report was filed for authorization to discharge winery wastewater generated at the Monterey Pacific Winery (Facility), located at 19640 Industrial Way, King City (see Attachment "A").

PURPOSE OF ORDER

2. This Order establishes waste discharge requirements intended to permit the discharge of winery process wastewater while protecting waters of the State.

SITE/FACILITY DESCRIPTION

Discharge Type

3. Winery process wastewater will be produced from seasonal crush operations, juice and fermenting operations. The highest flows will occur during the 6-8 week crush period that will occur between August and October depending on harvest requirements. Crush season winery process wastewater is characterized by high organic load and fluctuating pH.

4. Pomace (grape skins, seeds and stems) will be composted in the vineyard.

5. Sanitary sewer waste from the offices and facility restrooms will be discharged to the King City sanitary sewer system. No onsite treatment or disposal of sanitary waste will occur.

Design and Current Capacity

6. The flow will be highly variable throughout the year with peak flows occurring during crush, lighter flows following crush, and greatly reduced flows for the remainder of the year. During the crush, Phase I is expected to produce 26,430 gallons of wastewater each day and Phase II is expected to produce 52,850 gallons of wastewater each day.

7. Treatment of wine processing wastewater consists screening, followed by an oxidation in a mechanically aerated pond system. The Facility and disposal areas are shown on Attachment "B" of this Order.

Geology

8. The soil types near the Facility and ponds are stiff clay and sandy clay underlain by dense sand and coarse gravel. This layer is underlain by either stiff clay or gravel.

SUPPLY WATER QUALITY BASE ON 1998 – 2000 WATER QUALITY TESTING BY CALIFORNIA WATER SERVICE COMPANY				
CONSTITUENT	**UNIT**	**RANGE**	**AVERAGE**	**MCL**
Arsenic	ppb	ND-3	ND	50
Fluoride	ppm	0.17 – 0.24	0.21	2
Nitrate	ppm	6 – 11	8	45
TTHM	ppb	ND – 14.3	4 – 8	100
Copper	ppm	0.48	-0-	1.3
Chloride	ppm	22 – 33	27	500
Sodium	ppm	31 – 37	33	N/A
Specific Conductance	µmhos/cm	533 – 629	574	1,600
Sulfate	ppm	88 – 102	96	500
TDS	ppm	332 – 296	365	1,000
Total Hardness	ppm	218 – 265	238	N/A
Turbidity	NTU	0.10 – 0.15	0.12	5

Notes: ppb = parts per billion
ppm = parts per million
µmhos/cm = micro mhos per centimeter
NTU = Nephlometric turbidity units
ND = non detect
mc l = maximum contaminant level
N/A = not applicable
TTHM = Total trihalomethanes

9. The soil types in the area of the vineyard range from silty clay (CnA) to sandy loam (CbA) and (PnA). The dominant soil type in this area is sandy loam. This soil is underlain by clay. Runoff for this soil is slow and erosion hazard is light. This soil is used mainly for irrigated row and field crops. Soil percolation rates (permeability) range from 0.06 in/hr to 2.0 in/hr becoming more restrictive at depth. These soils are not subject to high water tables and are considered sufficient for lightly loaded winter wet weather treated wastewater application.

Surface and Groundwater

10. The Facility overlies the Upper Valley Aquifer Sub-Area of the Salinas Groundwater Basin. The estimated depth to ground water is greater than 90 feet with a gradient to the west and northwest. Present and anticipated beneficial uses of groundwater near the discharge include:

    a) Municipal & Domestic Water Supply,
    b) Agricultural Water Supply
    c) Industrial Process Supply, and
    d) Industrial Service Supply

11. The water supply is provided to the facility from the King City domestic water supply system. This system is operated by the California Water Service Company. The drinking water quality is monitored and tested on a regular basis. The following table summarized the results of the most recent tests:

12. Irrigation water for the vineyard is provided by private irrigation wells. The wells are located in the lower valley areas west of the Facility.

13. The Monterey Pacific facility will be located approximately 3000 feet west of the San Lorenzo Creek. The Basin Plan lists the following as beneficial uses of San Lorenzo Creek:

    a) Municipal and Domestic Supply
    b) Agricultural Supply
    c) Ground Water Recharge
    d) Water Contact Recreation
    e) Non-Contact Water Recreation
    f) Wildlife Habitat
    g) Warm Fresh Water Habitat
    h) Spawning, Reproduction, and/or Early Development
    i) Commercial and Sport Fishing

MONITORING PROGRAM

14. Monitoring and Reporting Program (MRP) R3-2002-0058 is a part of the proposed Order. The MRP requires routine water supply, ground water, and effluent monitoring to verify compliance and protection of ground water quality. The monitoring program includes monitoring of effluent for Total Dissolved Solids, Chloride, Total Nitrogen, Sodium, Sulfates, Boron, and pH. Monitoring reports are required semi-annually, due at the end of May and November.

BASIN PLAN

15. The Water Quality Control Plan, Central Coast Basin (Basin Plan) was adopted by the Board on November 19, 1989, and approved by the State Board on August 16, 1990. The Board approved amendments to the Basin Plan on February 11, 1994, and September 8, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of State waters.

ENVIRONMENTAL ASSESSMENT

16. This action is intended to ensure compliance with laws and regulations administered by the Board. As such, this action is categorically exempt from the provisions of the California Environmental Quality Act pursuant to Section 15321 of the Resources Agency Guidelines. Mitigation measures to prevent nuisance and assure protection of beneficial uses of surface and groundwaters will be implemented through this Order.

17. On February 26, 2002, the City of King adopted a Negative Declaration for the project in accordance with the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) and the California Code of Regulations. The City of King determined there are no significant adverse environmental effects or that all potentially significant adverse effects can be avoided through implementation of mitigation measures. Mitigation measures to prevent nuisance and assure protection of beneficial uses of surface and groundwater will be implemented through this Order.

Total Maximum Daily Load

18. Total maximum daily load (TMDL) allocations will be developed for impaired surface waters in the Salinas River Basin. TMDL documents will allocate responsibility for constituent loading throughout the watershed. Draft TMDL documents are anticipated by June 2003 for siltation, June 2004 for nutrients and pesticides, and June 2009 for salinity. During development of the TMDL source assessment and implementation plan, if Regional Board staff find constituent contributions from waste discharged may adversely impact beneficial uses or exceed water quality objectives, TMDL documents may require changes in Waste Discharge Requirements. Waste Discharge Requirements may be modified to implement applicable TMDL provisions and recommendations.

EXISTING ORDERS/GENERAL FINDINGS

19. Discharge of Waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance. Compliance with this Order should assume this and mitigate any potential adverse changes in water quality due to discharge.

20. On March 11, 2002, the Board notified the Discharger and interested agencies and person of its intent to issue waste discharge requirements for the discharge and has provided them with a copy of the proposed Order and an opportunity to submit written views and comments.

21. After considering all comments pertaining to this discharge during a public hearing on May 31, 2002, this Order was found consistent with the above findings.

IT IS HEREBY ORDERED, pursuant o authority in Section 13263 of the California Water Code, Steve McIntyre, his agents, successors, and assigns may discharge wastes from the Monterey Pacific Winery, providing compliance is maintained with the following:

Notes:

- Other prohibitions and conditions, definitions, and the method of determining compliance are contained in the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January 1984.)
- Throughout these requirements footnotes are listed to indicate 1) the source of requirements specified and 2) any new requirements. Requirement footnotes are as follows:

  BP Basin Plan
  Design Original Design
  CWC California Water Code
  BPJ Best Professional Judgement
  New A requirement that did not exist in the previous Board Order
  Existing A requirement that was carried over from the previous Board Order

- Other prohibitions and conditions, definitions, and the method of determining compliance are contained in the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January 1984.

A. PROHIBITIONS

1. Discharges not specifically regulated by this permit are prohibited. BPJ
2. The discharge of radioactive substances is prohibited. BP
3. Discharge of waste classified as "hazardous", or "designated", as defined in CCR, Title 23, Chapter 15, Section 2521(a) and CWC Section 13173, respectively, to any part of the wastewater disposal system is prohibited.
4. Unless adequate capacity is available, discharge of uncontaminated storm waters to the treatment facilities is prohibited. BPJ
5. The discharge of untreated or partially treated waste from anywhere within the collection, treatment, or disposal facility is prohibited.
6. Bypass or overflow of treated or untreated waste is prohibited.
7. The use of treated winery process wastewater outside of the designated vineyard disposal area is prohibited.
8. The discharge of waste to land that is not owned or controlled by the Discharger is prohibited.
9. Irrigating with treated wastewater when soils are saturated is prohibited.
10. The direct or indirect discharge of any wastewater to surface waters or surface water drainage courses is prohibited.
11. Creation of a condition of pollution, contamination, or nuisance, as defined by Section 13050 of the California Water Code (CWC), is prohibited. CWC
12. Adverse affects of the discharge to beneficial uses of water or threatened or endangered species is prohibited. CWC

B. SPECIFICATIONS

Influent Limitations

1. Discharge of winery process wastewater shall not exceed a 30-day average flow of 52,850 gallons per day.[Design]

Pond Limitations

2. Wastewater in the pond system shall not have pH less than 6.5 or greater than 8.3.[Design]

3. Dissolved oxygen concentration in the pond shall always be 2.0 mg/L or greater.[Design]

4. Pond banks and dikes shall be free from vegetation.[BPJ, Design]

5. Freeboard shall exceed two feet in wastewater treatment and storage ponds at all times.[BPJ, Design]

Effluent Limitations

6. Wastewater discharged from the pond system shall not exceed the following limits:

Constituent/Parameter	Units	30-Day Average
$BOD_{5\text{-day},20°C}$	mg/L	50 [Design]
Total Suspended Solids	mg/L	50 [BPJ]
Settleable Solids	ml/L	0.2 [BPJ]
Total Dissolved Solids	mg/L	600 [BP]
Sodium	mg/L	70 [BP]
Chloride	mg/L	150 [BP]
Sulfate	mg/L	150 [BP]

Groundwater Limitations

7. The discharges shall not cause a significant increase of mineral constituent concentrations in underlying ground waters.[BP]

8. The discharge shall not cause concentrations of chemicals and radionuclides in ground water to exceed limits set forth in Title 22 of the California Code of Regulations.[BP]

9. The discharge shall not cause ground water pH to be below 6.5 or above 8.4.[BPJ]

10. The discharge shall not cause nitrogen concentrations in the groundwater down gradient of the disposal area to exceed 5 mg/l (as N).[BP]

Storm Water Control

11. Extraneous surface drainage shall be diverted away from the treatment and storage ponds unless adequate capacity is available.

Nonpoint Source Control

12. Management practices shall be implemented on the vineyards and processing facilities to prevent sediments, nutrients, herbicides, pesticides, and other constituents of concern from entering waters of the state. Examples of management practices aimed at sediment reduction include, but are not limited to, out sloping vineyard roads, cover crops, water bars, rolling dips, etc. Similar types of management practices exist for reducing nutrients, herbicides, pesticides, and other constituents of concern.

C. PROVISIONS

13. Discharger shall comply with "Monitoring and Reporting Program No. R3-2002-0058", as specified by the Executive Officer.

14. Discharger shall comply with all relevant sections of the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated January 1984.

15. Pursuant to Title 23, Division 3, Subchapter 9, of the California Code of Regulations, the Discharger must submit a written report to the Executive Officer not later than November 30, 2011 addressing:APM,

    a) Whether there will be changes in the continuity, character, location, or volume of the discharge; and,

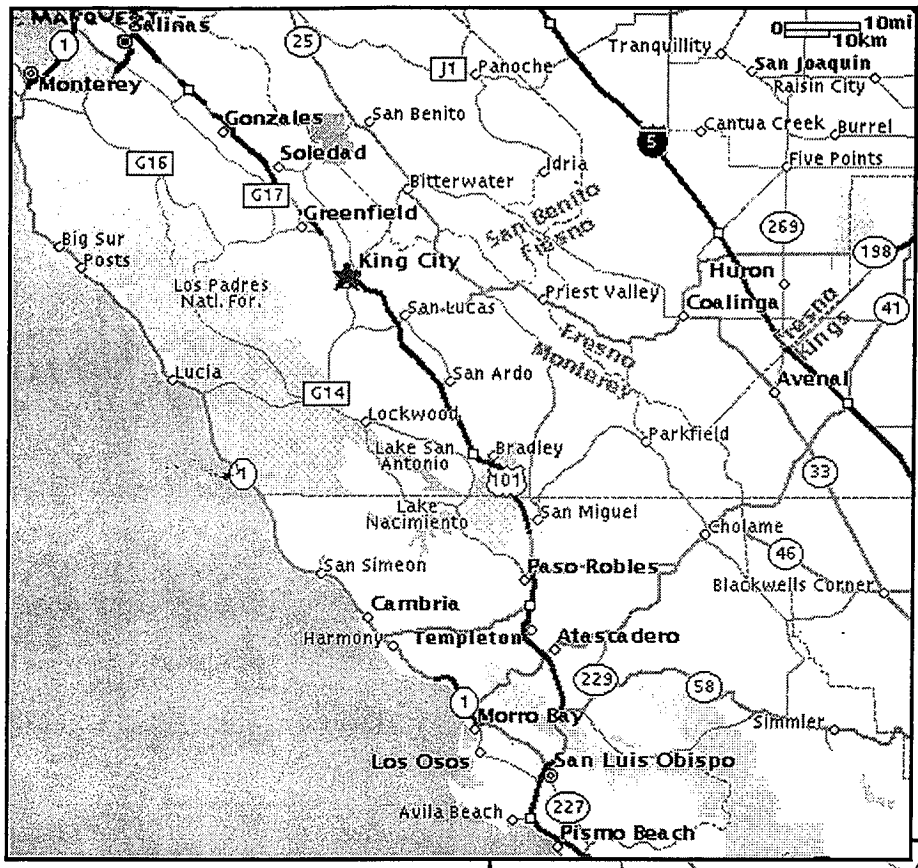
    b) Whether, in their opinion, there is any portion of the Order that is incorrect, obsolete, or otherwise in need of revision.

I, Roger W. Briggs, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Coast Region, on May 31, 2002.

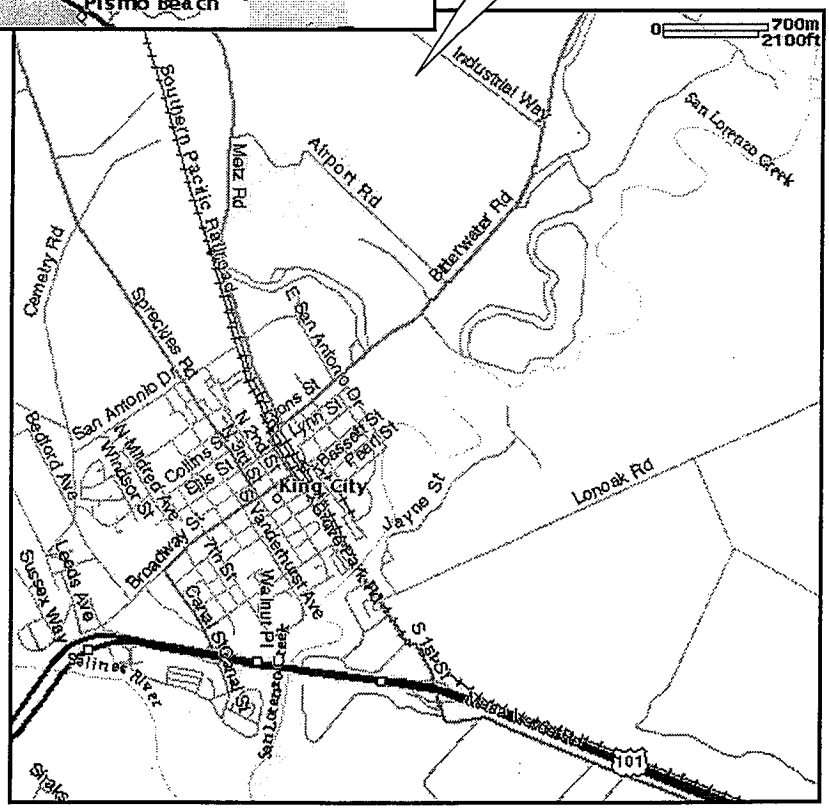
Madley E. Hagemann
for Executive Officer

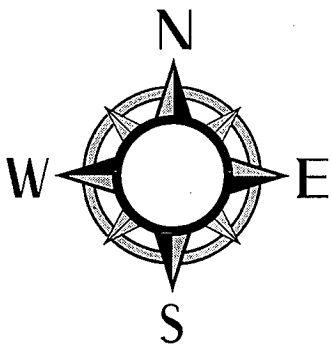
6/5/02
Date

S:\WB\Central Watershed\WDRs\Monterey Pacific Winery\WDR 2002.doc

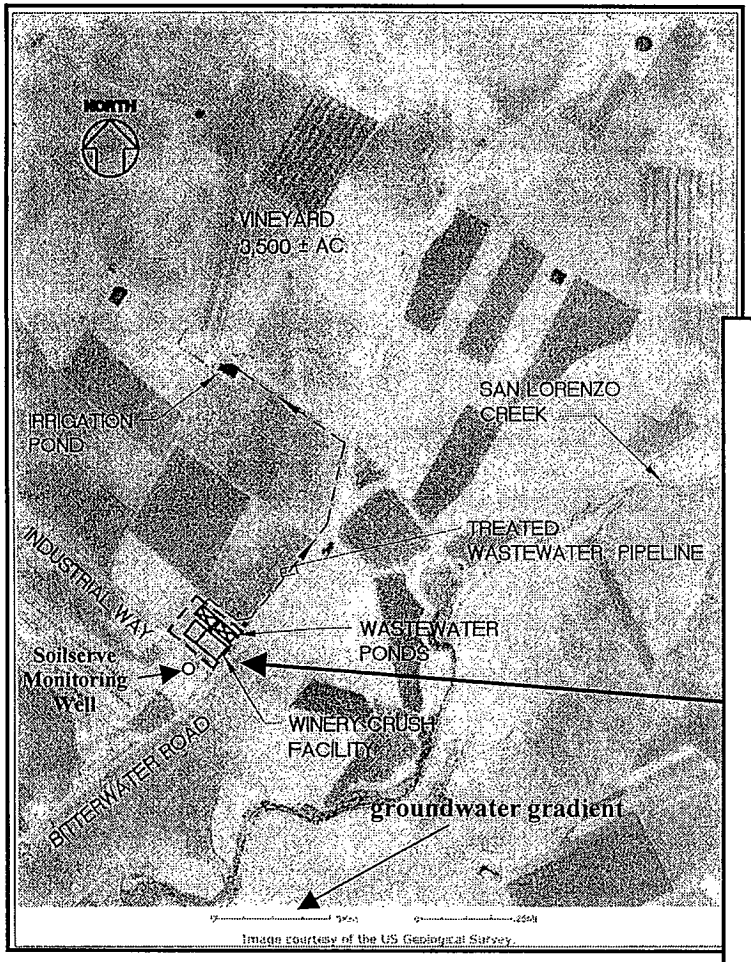


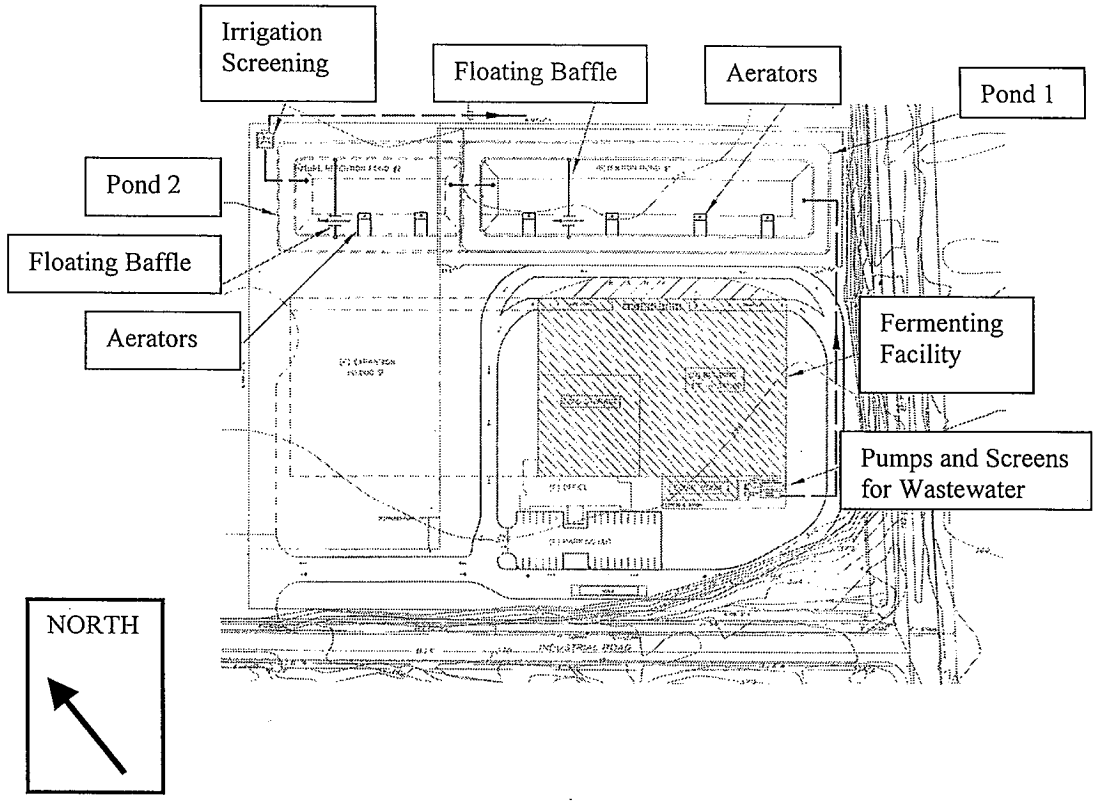
19640 Industrial Way





CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD CENTRAL COAST REGION	**MONTEREY PACIFIC WINERY** **Monterey County, California** **Location Map**	**Attachment** **A**





CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION

Monterey Pacific Winery
Monterey County, California

Location Map

Attachment
B

STATE OF CALIFORNIA
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
81 Higuera Street, Suite 200
San Luis Obispo, CA 93401-5411

MONITORING AND REPORTING PROGRAM NO. R3-2002-0058

Waste Discharger Identification No 3 270110029
Adopted at the May 31, 2002 Meeting
For
Monterey Pacific Winery
Monterey County

Samples and measurements taken for the purpose of monitoring shall be taken during periods of peak loading conditions, according to the following schedule:

WATER SUPPLY MONITORING

Representative grab samples of the water supply shall be collected annually and analyzed for the following:

Constituent	Units	Constituent	Units
Total Dissolved Solids	mg/L	Sulfate	mg/L
Chlorides	mg/L	Boron	mg/L
Nitrate (as N)	mg/L	Electrical Conductivity	µmhos/cm
Sodium	mg/L	pH	--

PROCESS MONITORING

Representative samples of process wastewater shall be collected and analyzed as follows:

Constituent	Units	Sample Type	Minimum Sampling and Analyzing Frequency
Start and End of Crush	dates	--	Annually
Duration of Crush	days	counted	Annually
Influent Flow	Gpd	metered	Weekly
Influent pH	--	grab	Weekly
Treatment Pond Dissolved Oxygen	mg/L	grab	Every two weeks for the duration of crush[c], and monthly for the remainder of year
Treatment Pond Freeboard	Feet	Measured	Weekly
Biochemical Oxygen Demand	mg/L	Grab	Every two weeks for the duration of crush[c], and monthly for the remainder of year
Total Dissolved Solids[b]	mg/L	Grab	Monthly
Volatile Solids[b]	mg/L	Grab	Monthly
Fixed Solids[b]	mg/L	Grab	Monthly
Sodium[b]	mg/L	Grab	Monthly
Chloride[b]	mg/L	Grab	Monthly
Total Kjeldahl Nitrogen (as N)[b]	mg/L	Grab	Monthly
Ammonia (as N)[b]	mg/L	Grab	Monthly
Nitrate (as N)[b]	mg/L	Grab	Monthly
Sulfate[b]	mg/L	Grab	Monthly
Boron[b]	mg/L	Grab	Monthly

DISPOSAL MONITORING

Discharger shall inspect and document the condition of the recycled water irrigation area at least once per week. Notations shall be made in a bound log book and include observations on odors, insects, or other potential nuisance conditions are present. Any incidents shall be promptly investigated and remedied. A record shall be kept of dates and nature of observations and corrective actions taken. A summary of the entries made in the log during each month shall be submitted with each semi-annual monitoring report.

SOLID WASTE DISPOSAL

A summary of estimated volumes and disposal locations of screenings, tank residues and solids removed from the spreading basins shall be included with each monitoring report.

CHEMICAL USAGE MONITORING

A summary of volumes and types of any chemicals used at the facility shall be included with each monitoring report.

NONPOINT SOURCE MANAGEMENT MEASURES

A summary of types, locations, and number of management practices used to reduce/eliminate nonpoint sources of pollution at the facility and in adjacent fields (wine processing, grape growing, facility cleaning, etc.) shall be included with each monitoring report.

REPORTING

The Discharger shall report monitoring data and information as required in this Monitoring and Reporting Program and as required in the Standard Provisions and Reporting Requirements. Reports shall be prepared semiannually with the reports due by the **30th of May and November each year**. All reports shall be reviewed and signed by a licensed civil engineer or geologist. All monitoring reports shall be submitted to the California Regional Water Quality Control Board, Central Coast Region. Reports may be sent to the following addresses:

California Regional Water Quality Control Board
Central Coast Region
81 Higuera Street, Suite 200
San Luis Obispo, CA 93401

All semi-annual monitoring reports shall include the following:

1. All data collected and calculated, all analytical reports from a state-certified laboratory, and all observations made during the previous two quarters. In reporting the monitoring data, the Discharger shall arrange the data in tabular form so that the date, the constituents, and the concentrations are readily discernible. The data shall be summarized in a manner that clearly illustrates whether the discharge complies with waste discharge requirements. If the Discharger monitors any pollutant at the locations designated herein more frequently than is required by this Order, the results of such monitoring shall be

included in the calculation and reporting of the values required in the discharge monitoring report. Such increased frequency shall be indicated on the discharge monitoring report.

2. A comprehensive discussion of the compliance record, and the result of any corrective actions taken or planned that may be needed to bring the Discharger into full compliance with the waste discharge requirements.

ORDERED BY Bradley E. Hagemann
For Executive Officer
6/5/02
Date

S:\WB\Central Watershed\WDRs\Monterey Pacific Winery\SMR 2002.doc

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL COAST REGION
JANUARY, 1984
STANDARD PROVISIONS AND REPORTING REQUIREMENTS
for
WASTE DISCHARGE REQUIREMENTS

CONTENTS:

A. General Conditions
B. General Monitoring Requirements
C. General Reporting Requirements
D. Bypasses or Upsets
E. Enforcement
F. Definitions (Defines terms that appear in quotes)

A. General Permit Conditions:

Prohibitions:

1. Introduction of "incompatible wastes" to the treatment system is prohibited. (See F.9.)

2. Discharge of chemical and biological warfare agents is prohibited.

3. Discharge of "toxic wastes" is prohibited. (See F.18.)

4. Introduction of pollutants into the collection, treatment, or disposal system by an "indirect discharger" that:

   a) inhibit or disrupt the treatment process, system operation, or the eventual use or disposal of sludge; or,

   b) cause or "significantly contribute" to a violation of any requirement of this Order, is prohibited. (See F.17.)

5. Introduction of "pollutant-free" wastewater to the collection, treatment, and disposal system in amounts that threaten compliance with this order is prohibited. (See F.14.)

Provisions:

6. Production and use of reclaimed water shall conform with reclamation criteria established in Title 22, Chapter 3, of the California Code of Regulations. For uses of reclaimed water not addressed in Title 22 and not in the main body of this order, use is subject to review and dependent upon approval by the Executive Officer before use may begin (For uses addressed in Title 22, see C.8.).

d) to photograph, sample, and monitor for the purpose of showing compliance with this order.

19. After notice and opportunity for a hearing, this order may be terminated or modified for cause, including, but not limited to:

a) violation of any term or condition contained in this order;

b) obtaining this order by misrepresentation, or by failure to disclose fully all relevant facts;

c) a change in any condition or endangerment to human health or environment that requires a temporary or permanent reduction or elimination of the authorized discharge; and,

d) a material change in character, location, or volume of the discharge.

20. The order does not authorize commission of any act causing injury to the property of another, does not convey any property rights of any sort, does not remove liability under federal, state, or local laws, and does not guarantee a capacity right.

21. The discharger shall take all reasonable steps to minimize or correct adverse impacts on the environment resulting from noncompliance with this order.

22. Provisions of this order are severable. If any provision of the order is found invalid, the remainder of the order shall not be affected.

23. The discharger shall furnish, within a reasonable time, any information the Regional Board may request to determine compliance with this order or to determine whether cause exists for modifying or terminating this order.

24. Safeguards shall be provided to assure maximal compliance with all terms and conditions of this order. Safeguards shall include preventative and contingency plans and may also include alternative power sources, stand-by generators, retention capacity, operating procedures, or other precautions. Preventative and contingency plans for controlling and minimizing the effect of accidental discharges shall:

a) identify possible situations that could cause "upset", "overflow" or "bypass", or other noncompliance. (Loading and storage areas, power outage, waste treatment unit outage, and failure of process equipment, tanks, and pipes should be considered.)

b) evaluate the effectiveness of present facilities and procedures and describe procedures and steps to minimize or correct any adverse environmental impact resulting from noncompliance with the order.

25. Physical facilities shall be designed and constructed according to accepted engineering practice and shall be capable of full compliance with this order when properly operated

6. If any parameter is monitored at locations specified in the order more frequently than required and is analyzed using approved test procedures, the results shall be included in calculations and reports.

7. All monitoring instruments and devices used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated as necessary to ensure their continued accuracy.

8. The discharger shall maintain records of all monitoring information, including all calibration and maintenance records; all original strip chart recordings for continuous monitoring instrumentation; the date, exact place, and time of sampling; the individual who performed the sampling; the date analysis was performed; the laboratory and individual who performed the analysis; the analytical techniques used; and results. Records shall be maintained for a minimum of three years. This period may be extended during the course of any unresolved litigation or when requested by the Board.

C. General Reporting Requirements:

1. Monitoring results shall be reported at intervals and in a manner specified in the Monitoring and Reporting Program of this order.

2. Monitoring reports shall be submitted on State Water Resource Control Board Form Q2 or an acceptable alternate form. A master copy of the form will be supplied by the Regional Board upon request.

3. Any noncompliance that may endanger health or the environment shall be reported orally within 24 hours from the time the discharger becomes aware of the circumstances (telephone: 805-549-3147). Unless waived by the Executive Officer of the Regional Board, a written report shall he submitted within five (5) days of awareness and shall contain a description of the noncompliance and its cause; the period of noncompliance (including exact dates and times) or anticipated duration; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. This provision includes, but is not limited to:

   a) violation of a discharge prohibition;

   b) any "upset", "overflow", or 'bypass";

   c) violation of a discharge limitation for any "hazardous substance."

4. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule shall be submitted within 14 days following each scheduled date unless otherwise specified within the order. If reporting non compliance, the report shall include a description of the reason, a description and schedule of tasks necessary to achieve compliance, and an estimated date for achieving full compliance. A second report shall be submitted within 14 days of full compliance.

12. Except for data determined to be confidential under Section 13267(b) of the California Water Code, all reports prepared in accordance with this order shall the available for public inspection at the office of the Regional Board.

13. Should the Discharger discover that it failed to submit any relevant facts or that it submitted incorrect information in a report, it shall promptly submit the missing or incorrect information.

14. All reports shall be signed as below:

    a) For a corporation; by a principle executive officer of at least the level of vice president;

    b) For a partnership or sole proprietorship; by a general partner or the proprietor, respectively;

    c) For a public agency; by either a principal executive officer or ranking elected official; or,

    d) Their "duly authorize] representative."

15. Any person signing a report makes the following certification, whether it is expressed or implied:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

16. By January 30 of each year, the discharger shall submit an annual report to the Regional Board. The report shall contain both tabular and graphical summaries of the monitoring data obtained during the previous year. The Discharger shall discuss the compliance record and corrective actions taken, or which may be needed, to bring the discharger into full compliance. The report shall address operator certification and provide a list of current operating personnel and their grade of certification. The report shall inform the Board of the date of the Facility's Operation and Maintenance Manual (including contingency plans as described in Provision A.24 .), of the date the manual was last reviewed, and whether the manual is complete and valid for the current facility. The report shall restate, for the record, the laboratories used by the discharger to monitor compliance with effluent limits and provide a summary of performance relative to Section B, General Monitoring Requirements.

If the facility treats industrial or domestic wastewater and there is no provision for periodic sludge monitoring in the Monitoring and Reporting Program, the report shall include a summary of sludge quantities, analyses of its chemical and moisture content, and its ultimate destination.

b) the facility was at the time of "upset" being properly operated; the discharger submitted notice of "upset" within 24 hours; and the discharger took all reasonable steps to minimize or correct any adverse impact on the environment.

E. Enforcement:

1. The discharger must comply with all conditions of this order. Noncompliance violates state law and is grounds for enforcement action or modification of the existing order.

2. Any person failing or refusing to furnish technical or monitoring program reports as required by subdivision (b) of section 13267 of the California Water Code, or falsifying any information provided therein, is guilty of a misdemeanor.

3. The discharger and any person who violates waste discharge requirements and/or who intentionally or negligently discharges waste or causes or permits waste to be deposited where it is discharged into surface waters of the state may be liable for civil and/or criminal remedies, as appropriate, pursuant to sections 13350, 13385, and 13387 of the California Water Code.

4. Upon reduction, loss, or failure of any part of the wastewater facility, the discharger shall, to the extent necessary to maintain compliance with this order, control production or all discharges, or both, until the facility is restored or an acceptable interim method of treatment or disposal is provided. Should enforcement action be brought against the discharger, the necessity to halt or reduce the permitted activity in order to obtain compliance with the conditions of this order shall not be a defense.

F. Definitions:

1. "Average" or "Mean" is the arithmetic mean of daily concentrations over the specified period in which "N" is the number of days samples were analyzed during the period and "X" is either the constituent concentration (mg/l) or flow for each sampled day. To be valid, "N" must be four or greater.

2. "Bypass" means the diversion of waste streams around any portion of a treatment facility to the disposal area or from the treatment facility to a nonauthorized location.

3. A "composite sample" is a combination of no fewer than eight (8) individual samples obtained at equal time intervals (usually hourly) over the specified sampling (composite) period. The volume of each individual sample is proportional to the flow rate at time of sampling. The period shall be specified in the Monitoring and Reporting Program ordered by the Executive Officer.

4. "Daily Discharge" means the discharge of a pollutant measured during a calendar day or during any 24-hour period reasonably representative of the calendar day for purposes of sampling.

5. "Daily Maximum" limit means the maximum acceptable concentration or mass emission rate of a pollutant measured during a calendar day or during any 24-hour period

in which "N" is the number of days samples were analyzed during the period and any "C" is the concentration of bacteria (MPN/100 ml) found on each day of sampling. To be valid, "N" must be five or more.

12. "Median" is the value below which half the samples (ranked progressively by increasing value) fall. It may be considered the middle value, or the average of two middle values. To be valid, three or more values are required.

13. "Overflow" means the intentional or unintentional diversion of flow from the collection and transport systems, including pumping facilities, and from disposal areas.

14. "Pollutant-free wastewater" means infiltration and inflow, storm waters, and cooling waters and condensates which are essentially free of pollutants.

15. "Severe property damage" means substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss to natural resources which can reasonably be expected to occur in the absence of a "bypass". It does not mean economic loss caused by delays in production.

16. "Sludge" means the solids, residues, and precipitates separated from, or created in, wastewater by the unit processes of a treatment system.

17. "To significantly contribute" to a waste discharge requirement violation means an "indirect discharger" must:

    a) Discharge a daily pollutant loading in excess of that allowed by contract with the discharger or by state or local law;

    b) Discharge wastewater which substantially differs in nature or constituents from its average discharge;

    c) Discharge pollutants, either alone or in conjunction with discharges from other sources, which results in a waste discharge requirement violation or prevents sludge use or disposal; or,

    d) Discharge pollutants, either alone or in conjunction with pollutants from other sources, that increase the magnitude or duration of waste discharge requirement violations.

18. "Toxic waste" means any toxic and persistent waste which falls within the following categories:

    a) PCB's
    b) Pesticides
    c) Toxic Metals
    d) Cyanides